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KG KAUAI DEVELOPMENT, LLC,  
PUKALANI GOLF CLUB, LLC,  
KG MAUI DEVELOPMENT, LLC,  
MILILANI GOLF CLUB, LLC,  
QK HOTEL, LLC, OR HOTEL, LLC,  
AND KG HOLDINGS, LLC

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

JAN 5 2007

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DEC 29 2006  
CLERK, U.S. DISTRICT COURT  
DISTRICT OF HAWAII

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

SPORTS SHINKO CO., LTD., a  
Japanese corporation,

Plaintiff,

vs.

QK HOTEL, LLC, a Hawai'i limited  
liability company; KG HOLDINGS, LLC,  
a Hawai'i limited liability company and  
FRANKLIN K. MUKAI,

Defendants,

and

FRANKLIN K. MUKAI,

CV 04-00124 ACK-BMK

CONSOLIDATED CASES

STIPULATION REGARDING  
CERTAIN EXHIBITS IN SUPPORT  
OF KG DEFENDANTS' MOTION  
TO DISMISS CV. NOS. 04-00125  
ACK-BMK, 04-00126 ACK-BMK  
AND 04-00128 ACK-BMK FOR  
LACK OF SUBJECT MATTER  
JURISDICTION FILED  
NOVEMBER 16, 2006; ORDER;  
REDACTED EXHIBITS 6-8 & 10-12

Third-Party Plaintiff,

vs.

SPORTS SHINKO (USA) CO., LTD., a Delaware corporation; SPORTS SHINKO (HAWAII) CO., LTD., a Hawai'i corporation; SPORTS SHINKO (MILILANI) CO., LTD., a Hawai'i corporation; SPORTS SHINKO (KAUAI) CO., LTD., a Hawai'i corporation; SPORTS SHINKO (PUKALANI) CO., LTD., a Hawai'i corporation; SPORTS SHINKO RESORT HOTEL CORPORATION, a Hawai'i corporation; SPORTS SHINKO (WAIKIKI) CORPORATION, a Hawai'i corporation; and OCEAN RESORT HOTEL CORPORATION, a Hawai'i corporation,

Third-Party Defendants,

and

SPORTS SHINKO (HAWAII) CO., LTD., a Hawai'i corporation; SPORTS SHINKO RESORT HOTEL CORPORATION, a Hawai'i corporation; and SPORTS SHINKO (WAIKIKI) CORPORATION, a Hawai'i corporation,

Third-Party Defendants /  
Counterclaimants,

vs.

QK HOTEL, LLC, a Hawai'i limited liability company; KG HOLDINGS, LLC, a Hawai'i limited liability company; and FRANKLIN K. MUKAI,

Third-Party Counterclaim  
Defendants

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SPORTS SHINKO (USA) CO., LTD., a  
Delaware corporation,

Plaintiff,

vs.

PUKALANI GOLF CLUB, LLC, a  
Hawai'i limited liability company; KG  
MAUI DEVELOPMENT, LLC, a  
Hawai'i limited liability company; KG  
HOLDINGS, LLC, a Hawai'i limited  
liability company; and FRANKLIN K.  
MUKAI,

Defendants,

and

FRANKLIN K. MUKAI,

Third-Party Plaintiff,

vs.

SPORTS SHINKO CO., LTD., a  
Japanese corporation; SPORTS SHINKO  
(HAWAII) CO., LTD., a Hawai'i  
corporation; SPORTS SHINKO  
(MILILANI) CO., LTD., a Hawai'i  
corporation; SPORTS SHINKO (KAUAI)  
CO., LTD, a Hawai'i corporation;  
SPORTS SHINKO (PUKALANI) CO.,  
LTD., a Hawai'i corporation; SPORTS  
SHINKO RESORT HOTEL

CV 04-00125 ACK-BMK

CORPORATION, a Hawai'i corporation;  
SPORTS SHINKO (WAIKIKI)  
CORPORATION, a Hawai'i corporation;  
and OCEAN RESORT HOTEL  
CORPORATION, a Hawai'i corporation,

Third-Party Defendants,

and

SPORTS SHINKO CO., LTD., a  
Japanese corporation; SPORTS SHINKO  
(HAWAII) CO., LTD., a Hawai'i  
corporation; and SPORTS SHINKO  
(PUKALANI) CO., LTD., a Hawai'i  
corporation,

Third-Party Defendants /  
Counterclaimants,

vs.

PUKALANI GOLF CLUB, LLC, a  
Hawai'i limited liability company; KG  
MAUI DEVELOPMENT, LLC, a  
Hawai'i limited liability company; KG  
HOLDINGS, LLC, a Hawai'i limited  
liability company; and FRANKLIN K.  
MUKAI,

Third-Party Counterclaim  
Defendants.

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SPORTS SHINKO (USA) CO., LTD.,  
a Delaware corporation,

Plaintiff,

vs.

CV 04-00126 ACK-BMK

KIAHUNA GOLF CLUB, LLC, a  
Hawai'i limited liability company; KG  
KAUAI DEVELOPMENT, LLC, a  
Hawai'i limited liability company;  
PUKALANI GOLF CLUB, LLC, a  
Hawai'i limited liability company; KG  
MAUI DEVELOPMENT, LLC, a  
Hawai'i limited liability company;  
MILILANI GOLF CLUB, LLC, a  
Hawai'i limited liability company; QK  
HOTEL, LLC, a Hawai'i limited  
liability company, OR HOTEL, LLC, a  
Hawai'i limited liability company; KG  
HOLDINGS, LLC, a Hawai'i limited  
liability company; and FRANKLIN K.  
MUKAI,

Defendants,

and

FRANKLIN K. MUKAI

Third-Party Plaintiff,

vs.

SPORTS SHINKO CO., LTD., a  
Japanese corporation; SPORTS  
SHINKO (HAWAII) CO., LTD., a  
Hawai'i corporation; SPORTS  
SHINKO (MILILANI) CO., LTD., a  
Hawai'i corporation; SPORTS  
SHINKO (KAUAI) CO., LTD., a  
Hawai'i corporation; SPORTS  
SHINKO (PUKALANI) CO., LTD., a  
Hawai'i corporation, SPORTS  
SHINKO RESORT HOTEL  
CORPORATION, a Hawai'i

corporation; SPORTS SHINKO (WAIKIKI) CORPORATION, a Hawai'i corporation; and OCEAN RESORT HOTEL CORPORATION, a Hawai'i corporation,

Third-Party Defendants,

and

SPORTS SHINKO (HAWAII) CO., LTD., a Hawai'i corporation and SPORTS SHINKO (KAUAI) CO., LTD., a Hawai'i corporation,

Third-Party Defendants /  
Counterclaimants,

vs.

KIAHUNA GOLF CLUB, LLC, a Hawaii limited liability company; KG KAUAI DEVELOPMENT, LLC, a Hawai'i limited liability company; PUKALANI GOLF CLUB, LLC, a Hawai'i limited liability company; KG MAUI DEVELOPMENT, LLC, a Hawai'i limited liability company; QK HOTEL, LLC, a Hawai'i limited liability company; OR HOTEL, LLC, a Hawai'i limited liability company; KG HOLDINGS, LLC, a Hawai'i limited liability company; and FRANKLIN K. MUKAI,

Third-Party Counterclaim  
Defendants.

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SPORTS SHINKO CO., LTD., a

CV 04-00127 ACK-BMK

Japanese corporation,

Plaintiff,

vs.

OR HOTEL, LLC, a Hawai'i limited liability company; KG HOLDINGS, LLC, a Hawai'i limited liability company; and FRANKLIN K. MUKAI,

Defendants,

and

FRANKLIN K. MUKAI

Third-Party Plaintiff,

vs.

SPORTS SHINKO (USA) CO., LTD., a Delaware corporation; SPORTS SHINKO (HAWAII) CO., LTD., a Hawai'i corporation; SPORTS SHINKO (MILILANI) CO., LTD., a Hawai'i corporation; SPORTS SHINKO (KAUAI) CO., LTD., a Hawai'i corporation; SPORTS SHINKO (PUKALANI) CO., LTD., a Hawai'i corporation; SPORTS SHINKO RESORT HOTEL CORPORATION, a Hawai'i corporation; SPORTS SHINKO (WAIKIKI) CORPORATION, a Hawai'i corporation; and OCEAN RESORT HOTEL CORPORATION, a Hawai'i corporation,

Third-Party Defendants,

and

SPORTS SHINKO (HAWAII) CO., LTD., a Hawai'i corporation; SPORTS SHINKO RESORT HOTEL CORPORATION, a Hawai'i corporation; and SPORTS SHINKO (WAIKIKI) CORPORATION, a Hawai'i corporation,

Third-Party Defendants /  
Counterclaimants,

vs.

OR HOTEL, LLC, a Hawai'i limited liability company; KG HOLDINGS, LLC, a Hawai'i limited liability company; and FRANKLIN K. MUKAI,

Third-Party Counterclaim  
Defendants.

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SPORTS SHINKO (USA) CO., LTD., a  
Delaware corporation,

Plaintiff,

vs.

MILILANI GOLF CLUB, LLC, a  
Hawai'i limited liability company; KG  
HOLDINGS, LLC, a Hawai'i limited  
liability company; and FRANKLIN K.  
MUKAI,

CV 04-00128 ACK-BMK



Defendants,

and

FRANKLIN K. MUKAI,

Third-Party Plaintiff,

vs.

SPORTS SHINKO CO., LTD., a  
Japanese corporation; SPORTS SHINKO  
HAWAII CO., LTD., a Hawai'i  
corporation; SPORTS SHINKO  
(MILILANI) CO., LTD., a Hawai'i  
corporation; SPORTS SHINKO (KAUAI)  
CO., LTD., a Hawai'i corporation;  
SPORTS SHINKO (PUKALANI) CO.,  
LTD., a Hawai'i corporation; SPORTS  
SHINKO RESORT HOTEL  
CORPORATION, a Hawai'i corporation;  
SPORTS SHINKO (WAIKIKI)  
CORPORATION, a Hawai'i corporation;  
and OCEAN RESORT HOTEL  
CORPORATION, a Hawai'i corporation,

Third-Party Defendants,

and

SPORTS SHINKO (HAWAII) CO.,  
LTD., a Hawai'i corporation and  
SPORTS SHINKO (MILILANI) CO.,  
LTD., a Hawai'i corporation,

Third-Party Defendants /  
Counterclaimants,

vs.

MILILANI GOLF CLUB, LLC, a  
Hawai'i limited liability company; KG  
HOLDINGS, LLC, a Hawai'i limited  
liability company, and FRANKLIN K.  
MUKAI,

Third-Party Counterclaim  
Defendants.

STIPULATION REGARDING CERTAIN EXHIBITS IN SUPPORT OF  
KG DEFENDANTS' MOTION TO DISMISS CV. NOS. 04-00125 ACK-BMK,  
04-00126 ACK-BMK AND 04-00128 ACK-BMK FOR LACK OF SUBJECT  
MATTER JURISDICTION FILED NOVEMBER 16, 2006

Defendants and Third Party Counterclaimant Defendants KG Holdings, LLC,  
QK Hotel, LLC, OR Hotel, LLC, Pukalani Golf Club, LLC, KG Maui  
Development, LLC, Mililani Golf Club, LLC, Kiahuna Golf Club, LLC and KG  
Kauai Development, LLC (collectively, "KG"), Plaintiffs and Third Party  
Defendants Sports Shinko Co., Ltd., Sports Shinko (USA) Co., Ltd., Sports Shinko  
(Hawaii) Co., Ltd., Sports Shinko (Mililani) Co., Ltd., Sports Shinko (Kauai) Co.,  
Ltd., Sports Shinko (Pukalani) Co., Ltd., Sports Shinko (Mililani) Co., Ltd., Sports  
Shinko (Waikiki) Corporation, and Ocean Resort Hotel Corporation (collectively  
"Sports Shinko", and Defendant and Third Party Plaintiff Franklin Mukai  
("Mukai"), through their respective counsel, hereby recite and stipulate as follows:

RECITALS:

WHEREAS on November 16, 2006, KG filed a Motion to Dismiss CV. Nos. 04-00125 ACK-BMK, 04-00126 ACK-BMK and 04-00128 ACK-BMK For Lack Of Subject Matter Jurisdiction (“Motion”);

WHEREAS Exhibits 6, 7, 8, 10, 11, and 12 (the “Exhibits”) contain certain tax information concerning Sports Shinko Co., Ltd. and Sports Shinko (USA) Co., Ltd.;

WHEREAS KG moved, *ex parte*, for leave to file Exhibits 6, 7, 8, 10, 11, and 12 under seal on November 16, 2006;

WHEREAS on November 17, 2006, the Court entered its *Order Regarding Ex Parte Motion to Seal Documents*, in which it granted leave to file an amended motion to seal addressing Kamakana v. City and County of Honolulu, 447 F.3d 1172 (9<sup>th</sup> Cir. 2006) (“Kamakana”);

WHEREAS “no one outside the litigation is seeking to unseal the motion or responses” or the exhibits (*see* Madsen v. Fortis Benefits Ins. Co., No. CV 04-1959-PHX-JAT, 2006 WL 1981785 (D. Ariz. Jul. 13, 2006));

WHEREAS 26 U.S.C. § 6103 and other provisions of the Internal Revenue Code protect the confidentiality of “return information” and “taxpayer return information,” as defined in IRC §§ 6103(b)(2) and (3);

WHEREAS “return information,” which includes information identifying the taxpayer, is not available to the public. See Church of Scientology of Cal. v. IRS, 484 U.S. 9, 18 (1987); Kamman v. United States IRS, 56 F.3d 46, 48 (9<sup>th</sup> Cir. 1995);

WHEREAS the “return information” other than that identifying the taxpayer and showing the address to which Exhibits were mailed in the Exhibits is irrelevant to the Motion;

WHEREAS any waiver of confidentiality on the part of Sports Shinko is limited to the unredacted information contained in the attached Exhibits, and Sports Shinko does not hereby waive confidentiality as to any other document and/or information designated as confidential under the January 25, 2005 Stipulated Protective Order entered herein;

WHEREAS exhibits 6, 7, 8, 10, 11, and 12 contain “return information” and/or “taxpayer return information”;

WHEREAS Exhibits 10 and 11 contain the return preparer’s social security number, the unauthorized public disclosure of which will constitute a violation of Hawaii law (Act 137 of 2006) as of July 1, 2007; and

WHEREAS Sports Shinko asserts that safeguarding the confidentiality of “return information” and “taxpayer return information” constitutes a “compelling reason” within the meaning of Kamakana to permit Exhibits 6, 7, 8, 10, 11, and 12

to be filed with certain return information redacted as shown on those exhibits as attached hereto;

WHEREAS the attorneys for KG state that the Exhibits, as attached and redacted, provide the Court with the information necessary to support the Motion; and

WHEREAS the attorneys for Mukai state that they have no objection to this Stipulation and proposed order;

NOW THEREFORE the parties stipulate that Exhibits 6, 7, 8, 10, 11, and 12, in the redacted form attached hereto, may be filed in the public record.

DATED: Honolulu, Hawai'i, DEC 29 2006.

  
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WARREN PRICE III  
ROBERT A. MARKS

Attorneys for KG Holdings, LLC, QK Hotel, LLC, OR Hotel, LLC, Pukalani Golf Club, LLC, KG Maui Development, LLC, Mililani Golf Club, LLC, Kiahuna Golf Club, LLC and KG Kauai Development, LLC

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Sports Shinko Co., Ltd v. QK Hotel, LLC, et al., D. Hawaii CV No. 04-00124 ACK-BMK and consolidated cases; STIPULATION REGARDING CERTAIN EXHIBITS IN SUPPORT OF KG DEFENDANTS' MOTION TO DISMISS CV. NOS. 04-00125 ACK-BMK, 04-00126 ACK-BMK AND 04-00128 ACK-BMK FOR LACK OF SUBJECT MATTER JURISDICTION FILED NOVEMBER 16, 2006; ORDER; REDACTED EXHIBITS 6-8 & 10-12

  
\_\_\_\_\_  
PAUL ALSTON  
GLENN T. MELCHINGER

Attorneys for Sports Shinko Co., Ltd.,  
Sports Shinko (USA) Co., Ltd., Sports  
Shinko (Hawaii) Co., Ltd., Sports  
Shinko (Mililani) Co., Ltd., Sports  
Shinko (Kauai) Co., Ltd., Sports  
Shinko (Pukalani) Co., Ltd., Sports  
Shinko (Mililani) Co., Ltd., Sports  
Shinko (Waikiki) Corporation, and  
Ocean Resort Hotel Corporation

  
\_\_\_\_\_  
WILLIAM BORDNER  
JOHN REYES-BURKE

Attorneys for Franklin Mukai

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Sports Shinko Co., Ltd v. QK Hotel, LLC, et al., D. Hawaii CV No. 04-00124  
ACK-BMK and consolidated cases; STIPULATION REGARDING CERTAIN  
EXHIBITS IN SUPPORT OF KG DEFENDANTS' MOTION TO DISMISS CV.  
NOS. 04-00125 ACK-BMK, 04-00126 ACK-BMK AND 04-00128 ACK-BMK  
FOR LACK OF SUBJECT MATTER JURISDICTION FILED NOVEMBER 16,  
2006; ORDER; REDACTED EXHIBITS 6-8 & 10-12

ORDER

The Court, having reviewed the foregoing Stipulation and exhibits attached hereto, hereby finds there are compelling reasons to support the filing of the attached exhibits as redacted.

NOW THEREFORE, the foregoing exhibits, as redacted, are ordered filed in the public record in support of the KG Defendants' Motion to Dismiss CV. Nos. 04-00125 ACK-BMK, 04-00126 ACK-BMK and 04-00128 ACK-BMK For Lack Of Subject Matter Jurisdiction, filed herein on November 16, 2006.

DATED: Honolulu, Hawai'i, 1. 3. 2006.



JUDGE OF THE ABOVE-ENTITLED COURT

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Sports Shinko Co., Ltd v. QK Hotel, LLC, et al., D. Hawaii CV No. 04-00124 ACK-BMK and consolidated cases; STIPULATION REGARDING CERTAIN EXHIBITS IN SUPPORT OF KG DEFENDANTS' MOTION TO DISMISS CV. NOS. 04-00125 ACK-BMK, 04-00126 ACK-BMK AND 04-00128 ACK-BMK FOR LACK OF SUBJECT MATTER JURISDICTION FILED NOVEMBER 16, 2006; ORDER; REDACTED EXHIBITS 6-8 & 10-12